

Congress of the United States

Washington, DC 20515

September 25, 2020

The Honorable Gene L. Dodaro
Comptroller General
United States Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Comptroller General Dodaro:

We write to request that the Government Accountability Office (GAO) initiate a review of the procurement and management of information technology (IT) at the Administrative Office of the U.S. Courts (AOUSC).

We have observed major IT projects at the AOUSC experience cost overruns and schedule delays, and we are concerned with the agency's ability to monitor its major IT projects once they are approved and whether the agency is appropriately managing an increased cybersecurity workforce. As these issues have been raised before by employees of the AOUSC as well as Congress, we would also request that GAO examine the waste, fraud and abuse reporting procedures with regards to IT and procurement and how previous complaints have been resolved or ignored. Please find attached to this letter an exchange of correspondence between the House Committee on Oversight and Reform and the AOUSC regarding these and other matters.

GAO has reported on the government's longstanding challenges in delivering information technology. For example, improving the management of IT acquisitions and operations has been on GAO's high-risk list since 2015 because IT investments too frequently fail or incur cost overruns and schedule slippages, while contributing little to mission-related outcomes.¹ These failures are often due to a lack of disciplined and effective management, such as project planning, requirements definition, and program oversight and governance. The security of federal information systems has also been a high-risk area since 1997, and in 2018, GAO reported that effective cybersecurity workforce management was a critical action for addressing cybersecurity challenges facing the nation.² During a hearing on the FY2021 budget request for the Judiciary, Judge John W. Lungstrum testified that cybersecurity incursions against the Judiciary networks have increased from nine million in 2016 to 24 million in 2019.³

¹ Government Accountability Office, *High Risk Series: An Update*, GAO-15-290 (Washington, D.C.: Feb. 11, 2015) and subsequent reports, such as *High-Risk Series: Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas*, GAO-19-157SP (Washington, D.C.: Mar. 6, 2019).

² Government Accountability Office, *High-Risk Series: Urgent Actions Are Needed to Address Cybersecurity Challenges Facing the Nation*, GAO-18-622 (Washington, D.C.: Sept. 6, 2018).

³ House Appropriations Committee, Subcommittee on Financial Services and General Government. *Hearing on Judiciary Department FY2021 Budget Request*. (February 26, 2020).

We are also concerned with AOUSC's stewardship of the Judicial Information Technology Fund (JITF)⁴ and, in particular, deposits generated from Electronic Public Access (EPA) fees that members of the public pay in order to access federal court electronic docketing information.⁵ The United States Court of Appeals for the Federal Circuit recently held that EPA fees may only be used for expenses incurred in providing electronic access for members of the public to information stored on a federal court docketing system, and affirmed a district court's finding that the AOUSC had unlawfully used EPA funds for other purposes.⁶

The AOUSC provides a broad range of legislative, legal, financial, technology, management, administrative, and program support services to federal courts. The AOUSC has reportedly seen a significant increase in the size and complexity of the technological services it must provide to the court community. It is imperative the AOUSC improve its IT and procurement practices for the purposes of supporting a functioning judicial system.

Given our concerns, we believe it is important GAO examine both (1) the AOUSC's procurement and IT management practices and (2) the AOUSC's controls over the use of EPA fees and other deposits to the JITF. We are interested in whether AOUSC is effectively monitoring IT contracts; planning and managing its cybersecurity workforce; implementing key IT acquisition and development best practices; maintaining proper controls to ensure that EPA fees are not used unlawfully; and responding appropriately to complaints about waste, fraud, and abuse in IT procurement and use of EPA fees. We are also interested in whether and to what extent EPA fees have been used for any purpose other than providing public access to federal court electronic docketing information.

We appreciate your consideration of this request.

Sincerely,



Gerald E. Connolly
Chairman
Subcommittee on Government Operations



Henry C. "Hank" Johnson Jr.
Chairman
Courts, Intellectual Property, and the
Internet

⁴ 28 U.S.C. 612.

⁵ 28 U.S.C. 1913 Note.

⁶ *National Veterans Legal Services Program v. United States*, No. 19-1081 at 19, 29-31 (Fed. Cir. Aug 6, 2020), http://www.ca9.uscourts.gov/sites/default/files/opinions-orders/19-1081.OPINION.8-6-2020_1631951.pdf.